

## **September 6, 2011 - Regular Town Council Meeting**

**At a Regular Meeting of the Town Council of the Town of Middletown, RI held at the Middletown Town Hall on Tuesday, September 6, 2011 at 6:00 P.M.**

**Council President Arthur S. Weber, Jr.**

**Vice President Bruce J. Long**

**Councillor Richard Cambra**

**Councillor Christopher T. Semonelli**

**Councillor Antone C. Viveiros, Arrives at 7:00 pm**

**Councillor Barbara A. VonVillas, Members Present**

**Councillor Edward J. Silveira, Jr., Absent**

## **PLEDGE OF ALLEGIANCE TO THE FLAG**

## **RECONSIDERATION**

**The Middletown Town Council follows the codification of present-day general parliamentary law as articulated in Robert's Rules of Order Newly Revised 10th edition (2000), together with whatever rules of order the Council has adopted for its own governance. The motion to reconsider is one of the motions that can bring a question again before an assembly, and is designed to bring back for further consideration a motion which has already been voted on:**

**If, in the same session that a motion has been voted on, but no later than the same day or the next day on which a business meeting is held, new information or a changed situation makes it appear that a different result might reflect the true will of the assembly, a member who voted with the prevailing side can, by moving to Reconsider [RONR (10th ed.), p. 304-321] the vote, propose that the question shall come before the assembly again as if it had not previously been considered. (From Robert's Rules of Order Newly Revised In Brief, Robert, Evans et al., De Capo Press, 2004)**

**There were no reconsiderations.**

## **EXECUTIVE SESSION**

**Pursuant to provisions of RIGL, Sections 42-46-2., 42-46-4., and 42-46-5. (a) (2) Collective Bargaining (Police and Public Works Unions), (2) Potential Litigation (HK& S Bid Protest) and (1) Personnel (Town Administrator).**

**On motion of Vice President Long, duly seconded, it was voted unanimously to recess open session at 6:01 P.M. and reconvene in executive session.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to reconvene in open session at 7:06 P.M.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to seal the minutes of the executive session pursuant to Section 42-46-7. RIGL.**

**Council President Weber announced that the Omni Drive Petition for rezoning is rescheduled to October 3, 2011 Regular Meeting of the Council.**

**Council President Weber requested that items #28, #32 and #33 be addressed at this time.**

**Councillor Viveiros left the meeting at 7:36 pm.**

**The Council acted on the following after item #33.**

## **PUBLIC FORUM SESSION**

**Pursuant to Rule 23 of the Rules of the Council, Citizens may address the town on one (1) subject only, said subject of substantive Town business, neither discussed during the regular meeting nor related to personnel or job performance. Citizens may speak for no longer than five (5) minutes and must submit a public participation form to the Council Clerk prior to the start of the meeting.**

**No one addressed the Council during this session.**

## **ACTING AS A BOARD OF LICENSE COMMISSION**

### **1. (Advertised for Public Hearing)**

**Application of Jung, LTD dba Sea Shai, 741 Aquidneck Avenue, holder of a Class BV Alcoholic Beverage License to TRANSFER said License to S.H.I.J., INC. dba New Sea Shai, for use at the same premises.**

**Public Hearing was declared open.**

**There being no person present desiring to be heard, public hearing was declared closed.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to grant said license.**

**2. (Advertised for Public Hearing)**

**Application of Frank Santos dba Sandy's Liquors, holder of a Class A Alcoholic Beverage License to TRANSFER said License to Michael Santos dba Sandy's Liquors, for use at the same premises.**

**Public Hearing was declared open.**

**There being no person present desiring to be heard, public hearing was declared closed.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to grant said license.**

**Town Solicitor Michael W. Miller recused himself from the following item of business, item #3, due to a possible conflict of interest.**

**3. Petition of Olin D. Gambrell, President and Vilma Parsonage, Bar Manager of the All-Vets Club, 985 Aquidneck Avenue, re: Request for expansion of Class D Alcoholic Beverage License to provide outdoor service on September 18, 2011, for a Memorial Dedication (1st Anniversary) for all fallen Sisters and Brothers in all Branches of the Military.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to grant said request.**

**Vice President Long recused himself from acting of the following item of business, item #4, due to a possible conflict of interest.**

**4. Application of Temple Shalom, 223 Valley Road, for a Class F-2 Alcoholic Beverage License for Sunday, October 23, 2011.**

**On motion of Councillor VonVillas, duly seconded, it was voted unanimously to grant said license.**

**5. Application of Center For Health & Well Being, 333 Valley Road, for a Class F-2 Alcoholic Beverage License for Tuesday, September 27, 2011.**



**On motion of Vice President Long, duly seconded, it was voted unanimously to grant said license.**

## **CONSENT**

**6. Approval of Minutes, re: Regular Meeting, August 15, 2011.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to approve said minutes.**

**7. Resolution from the City of Newport, with enclosure, re: List of Special Events being held in the City of Newport.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said resolution.**

**8. Resolution of the City of Cranston, re: Urging the Governor to openly bid for Debit Card Services used by the State of Rhode Island.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said resolution.**

**9. Communication of Barbara S. Schiaroli, Assistant Executive Director, James L. Maher Center, re: Appreciation of Civic support.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said communication.**

**10. Memorandum of Margarita H. Chatterton, Senior Sanitary Engineer RIPDES Program/Office of Water Resources, RIDEM, re: Re-issuance of Rhode Island Pollutant Discharge Elimination System (RIPDES) General Permit for Stormwater Discharges from Small Municipal**

**Separate Storm Sewer Systems (MS4s) and Industrial Activity at Eligible Facilities Operated by Regulated Small MS4s (MS4 GP).**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.**

**11. Communication of Laurent L. Rousseau, Esquire, representing Prescott Point, LLC and Prescott Point Investor, LLC, with enclosures, re: Petition to Rezone Lot 7 on TAP 104 from Traffic Sensitive Medium Density Residential (R-20A) to RMA, Traffic Sensitive Residential Multifamily. (Planning Board Recommendation Attached; Requires Advertising for Public Hearing and notice to abutters)**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said communication and petition, notify abutters and advertise for public hearing to be held on October 3, 2011.**

**12. Communication of David P. Martland, Esquire, representing Middletown Self-Storage, LLC, with enclosures, re: Petition to rezone certain property at 909 Aquidneck Avenue, Lot 758 on TAP 114 from Limited Business/Traffic Sensitive (LBA) and Residential-20 (R-20) to Limited Business/Traffic Sensitive (LBA). (Planning Board Recommendation Attached; Requires Advertising for Public Hearing and notice to abutters)**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said communication and petition, notify abutters and advertise for public hearing to be held on October 3, 2011.**

**13. (Continued from Regular Meeting, August 15, 2011; Abutters Notified)**

**Public Hearing (Advertised; Abutters Notified)**

**An Ordinance of the Town of Middletown (First Reading)**

**An Ordinance in amendment to the Town Code of the Town of**

**Middletown, Chapter 152, Zoning Code, reclassification of Lots 8, 9 and 10, TAP 111 from Light Industrial Traffic Sensitive (LIA) to General Business A (GBA) and Lot 9A on TAP 111 from Light Industrial (LI) to General Business (GB). (Planning Board recommendation attached; Continued to October 3, 2011 for re-notification to abutters)**

**On motion of Vice President Long, duly seconded, it was voted unanimously to continue said public hearing to October 3, 2011 for re-notification to abutters.**

**14. Petition from Jessica Quinn, Attorney-At-Law, Rob Levine & Associates on behalf of Roy W. Naisbitt, III, re: Personal Injury.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said petition.**

**15. Memorandum of Town Administrator, re: Clarification about**

## **Federal Grant for Boat Ramp.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.**

### **16. (Continued from Regular Meeting, July 18, 2011)**

**Memorandum of Town Administrator, with enclosures, re: RIDEM Draft Agreement for Third Beach Boat Ramp Funding. (At the request, of the Administration item will be continued to October 3, 2011 Regular Meeting of the Council)**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum and continue said matter to October 3, 2011 Regular Meeting of the Council.**

### **17. Application of Jim's Deli & Pizza, 957 West Main Road, for RENEWAL of a Mechanical Amusement Device License for the**

**2011-2102 licensing year. (One game)**

**On motion of Vice President Long, duly seconded, it was voted unanimously to grant said license renewal.**

**18. Application of Laurin Enterprises dba Gold's Auto Wrecking Company, 113 Fenner Avenue, for RENEWAL of a Junk Dealer's License for the 2011-2012 licensing year.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to grant said license renewal.**

**19. Application of Middletown Columbus Club, Inc., 7 Valley Road, for RENEWAL of a Bingo License for the 2011-2012 licensing year.**

**On motion of Vice President Long, duly seconded, it was voted**

**unanimously to grant said license renewal.**

**20. Application of Rui F. Almeida dba Doughboy's Kitchen, Fall River for RENEWAL of an Industrial Caterers License for the 2011-2012 licensing year.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to grant said license renewal.**

## **LICENSES**

**21. Application of Spirit Halloween, 1315 West Main Road, for a Holiday License for the 2011-2012 licensing year. (NEW)**

**On motion of Vice President Long, duly seconded, it was voted unanimously to grant said license.**



## **ORDINANCES**

### **22. An Ordinance of the Town of Middletown (Second Reading)**

**An Ordinance in amendment to the Town Code of the Town of Middletown, Title IX, General Regulations, Chapter 90A Feeding Non-Domesticated Animals.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to adopt said ordinance on its second reading.**

### **23. An Ordinance of the Town of Middletown (Second Reading)**

**An Ordinance in amendment to the Town Code of the Town of Middletown, Title IX, General Regulations, Chapter 90 Animals, Section 90.99(B) Penalty and Chapter 94 Streets, Sidewalks and Public Places, Section 94.99(B)(5) Penalty.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to adopt said ordinance on its second reading.**

**24. An Ordinance of the Town of Middletown (Second Reading)**

**An Ordinance in amendment to the Town Code of the Town of Middletown, Title IX, General Regulations, Chapter 90 Animals, Section 90.23 Licensing.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to adopt said ordinance on its second reading.**

**25. An Ordinance of the Town of Middletown (Second Reading)**

**An Ordinance in amendment to the Town Code of the Town of Middletown, Title III Administration, Chapter 36 Fee Schedule, Section 10 Dog Registration.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to adopt said ordinance on its second reading.**

## **COMMUNICATIONS OF BOARDS AND COMMITTEES**

**26. Memorandum of Jan Eckhart, Chairman, Planning Board, with enclosure, re: Summerfield Lane (Indian Farm) Subdivision, (Benjamin Brayton) – Recommendation for acceptance of street and public improvements for town maintenance.**

**Town Planner Ronald Wolanski explained that this request is the last step in the subdivision process. Mr. Wolanski reviewed the following memorandum entered here:**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.**

**Manuel Mello, Beacon Terrace North, addressed the Council requesting them not to accept the street until the drainage has been addressed.**

**Town Engineer Warren Hall explained that the roadway is narrower than a conventional road. Mr. Hall noted that the construction is a new low impact technique and the water drains into a pond.**

**Councillor Semonelli inquired if acceptance is time sensitive.**

**Council President Weber suggested continuing this matter and having a site visit of the area.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to continue this item to the next regular meeting of the Council, to be held on September 19, 2011.**

**27. Resolution of the Council, re: Acceptance of Summerfield Lane (Indian Farm) Subdivisions road and associated public improvements for purposed of town maintenance.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to continue this item to the next regular meeting of the Council, to be held on September 19, 2011.**

## **OTHER COMMUNICATIONS**

**28. Memorandum of Rosemarie K. Kraeger, Superintendent of Schools and Michael F. Crowley, Jr., School Committee Chair, with enclosures, re: Necessity of School Construction, Stage 2. (This item was acted on after the Executive Session)**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.**

**Superintendent Rosemarie Kraeger addressed the Council introducing Tim Sheley, Chair of the School Building Advisory Committee and School Facility Director Edward Collins.**

**Mr. Sheley noted that the items within the comprehensive study of the schools were related to health and safety upgrades, not to build a new school.**

**Facilities Director Edward Collins reviewed the Stage II Necessity of School Construction Architectural Feasibility Study summary of recommendations, entered here:**

**Superintendent Rosemarie Kraeger noted that the entire Necessity of School Construction, Stage 2 report must be approved by the Council; to allow for reimbursement from the State for health and safety upgrades of School facilities.**

**Town Administrator Shawn Brown explained that the Necessity of School Construction, Stage 2 report contains improvements, which the Council has approved in the current CIP budget.**

**Manny Mello, Beacon Terrace North, addressed the Council inquiring if the School is requesting more funds from the Town.**

**Council President Weber, responding to Mr. Mello, explained that this is not a request for more funding. The funding has already been approved in the current CIP budget.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to approve said Necessity of School Construction, Stage 2 report and authorize the Council President to execute said memorandum.**

**29. Communication of Janice M. Scherdt, M Ed, re: VA home.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said communication.**

**On motion of Councillor Semonelli, duly seconded, it was voted unanimously to support the initiative and request the legislative delegation to pursue this initiative.**

**30. Communication of Cheryl G. Robinson, President, Turning Around Ministries, Inc., re: Request for support by participating in the September 10, 2011 Walk-A-Thon and a contribution to TAM to help reach the fundraising goal.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said communication and authorize a contribution from the President's discretionary fund in the amount of \$100.00 to help TAM reach the fundraising goal.**



**31. Communication of Joyce Williams, President, Newport County Branch, NAACP, re: Request support by placing an ad in the NAACP 92nd Anniversary Souvenir Booklet.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said communication and approve a full-page ad (cost \$125.) in the Anniversary Souvenir Booklet to be appropriated from the Council President's Discretionary Fund.**

## **COMMUNICATIONS OF TOWN ADMINISTRATOR**

**32. (Continued from Regular Meeting, August 15, 2011)**

**(Continued from Regular Meeting, July 18, 2011)**

**Memorandum of Jan Eckhart, Planning Board Chairman, re: Request of the Town Council for Planning Board review and recommendation on proposed RIDOT improvement options for the West Main Road**

**intersections with East Main Road and Coddington Highway. (This item was acted upon after item #28)**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.**

**Town Administrator Shawn Brown reviewed the process the Council followed for the proposed RIDOT improvement options for the West Main Road intersections with East Main Road and Coddington Highway. Mr. Brown noted that the Council must chose either signalization or the roundabout option for the areas.**

**Council President Weber thanked the Planning Board for their recommendation along with the residents for input on the decision. Mr. Weber noted he will support signalization.**

**Councillor Semonelli explained that roundabouts are a safer option if there was a single lane of traffic. Mr. Semonelli noted his support for**

**signalization in the area.**

**Councillor Cambra noted that the citizens were loud and clear on their support for signalization. Mr. Cambra explained that the area is too busy for a roundabout.**

**Councillor VonVillas explained that roundabouts are not the solution for the area.**

**Councillor Viveiros noted that roundabouts have a place, however, not in the suggested area.**

**Vice President Long explained that the proposal for roundabouts initialized with the Aquidneck Island Traffic Study. RIDOT gave the Town the opportunity to review the options for the intersections.**

**Theresa Spengler, 111 Wapping Road, addressed the Council noting her concern with the roundabout option, explaining the there are many seniors and tourists which may have difficulties with roundabouts. Mrs. Spengler supports the signalized option.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to inform RIDOT that the Middletown Town Council has chosen the signalization upgrade of the West Main Road intersections with East Main Road and Coddington Highway.**

**33. Memorandum of Town Administrator, with enclosure, re: Weston & Sampson Peer Review for VHB Traffic Evaluation of West Main Road Intersections at East Main Road and at Coddington Highway. (This item was acted upon after item #32)**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.**

**The Council returned to the regular agenda.**

**Councillor Viveiros left the meeting at 7:36 pm.**

**34. (Continued from Regular Meeting, August 15, 2011)**

**(Continued from Regular Meeting, July 18, 2011)**

**Memorandum of Town Administrator, with enclosures, re: Contract Award: Prospect Avenue, Green End Avenue Culvert Replacement.**

**Town Administrator Shawn Brown reviewed the following memorandum entered here:**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.**

**35. (Continued from Regular Meeting, August 15, 2011)**

**(Continued from Regular Meeting, July 18, 2011)**

**Resolution of the Council, re: Award of contract for Prospect Avenue, Green End Avenue Culvert Replacement.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.**

**36. Memorandum of Town Administrator, with enclosures, re: Award of contract for Tuckerman Avenue Drainage.**

**Town Administrator Shawn Brown reviewed the following memorandum entered here:**

**On motion of Vice President Long, duly seconded, it was voted**

**unanimously to receive said memorandum.**

**37. Resolution of the Council, re: Award of contract for Tuckerman Avenue Drainage.**

**On motion of Councillor Semonelli, duly seconded, it was voted unanimously to pass said resolution.**

**38. Memorandum of Town Administrator, with enclosures, re: Award of contract for Storm Drain Retrofit at Gaudet School & Newport Avenue.**

**Town Administrator Shawn Brown reviewed the following memorandum entered here:**

**On motion of Vice President Long, duly seconded, it was voted**

**unanimously to receive said memorandum.**

**Town Engineer Warren Hall noted that at Gaudet School the Storm Drain Retrofit is to treat water runoff from the Gaudet parking lot.**

**Town Administrator Shawn Brown noted that the installation is an upstream improvement to manage and treat stormwater.**

**39. Resolution of the Council, re: Award of contract for Storm Drain Retrofit at Gaudet School & Newport Avenue.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.**

**40. Memorandum of Town Administrator, with enclosures, re: Award of contract for Fire Department Tower Ladder.**



**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.**

**Fire Chief Ronald Doire addressed the Council reviewing the following memorandum, entered here:**

**41. Resolution of the Council, re: Award of contract for Fire Department Tower Ladder.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.**

**42. Memorandum of Town Administrator, with enclosures, re: Award of contract for Fire Department Pumper Truck.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.**

**Fire Chief Ronald Doire addressed the Council reviewing the following memorandum, entered here:**

**Town Administrator Shawn Brown noted that the truck has a five year lease purchase agreement.**

**43. Resolution of the Council, re: Award of contract for Fire Department Pumper Truck.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.**

**44. Communication of Finance Director, thru Town Administrator, with enclosures, re: Cancellations of Taxes for certain Middletown residents.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said communication.**

**45. Resolution of the Council, re: Cancellation of Taxes for certain Middletown residents.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.**

**46. Communication of Tax Assessor, thru Town Administrator, with enclosures, re: Cancellation of Taxes for certain Middletown residents.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said communication.**

**47. Resolution of the Council, re: Cancellation of Taxes for certain Middletown residents.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.**

**48. Memorandum of Town Administrator, re: Town Administrator's Report on Tropical Storm Irene.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.**

**Discussion centered around the team work displayed by all departments, before during and after tropical storm Irene.**

**Town Administrator Shawn Brown thanked all involved for their efforts in preparation of the storm.**

**Fire Chief Ronald Doire reviewed Emergency Management Team and thanked all participating departments for their assistance.**

**49. Memorandum of Town Administrator, re: Town Administrator's Report on Public Works Projects.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.**

**Town Administrator Shawn Brown reviewed the Public Works projects entered here:**

## **APPOINTMENTS OF BOARDS AND COMMITTEES**

**50. Appointment of one (1) member to the Middletown Substance Abuse Prevention Task Force to complete a term expiring in March 2012, to complete a term expiring March 2014 or to complete a term expiring April 2012.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to appoint Ramona Mello to complete a term expiring March 2012.**

**51. Communication of Susan Woythaler, re: Resignation from the Middletown Committee for the Arts.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to accept said resignation with regret.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to adjourn said meeting at 8:45 P.M.**

**Wendy J.W. Marshall, CMC**

**Council Clerk**

**September 6, 2011 - Regular Town Council Meeting**

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